

FACTSHEET

TITLE: **LETTER OF APPEAL** filed by 11 property owners appealing Planning Commission Resolution No. PC-00657 approving **SPECIAL PERMIT NO. 1892**, requested by Qwest Wireless, L.L.C., for authority to construct a 123' personal wireless facility, with associated ground equipment and a request to waive the fall zone requirement, on property generally located at No. 7th Street and Fletcher Avenue.

STAFF RECOMMENDATION: **DENIAL**

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/10/01 and 01/24/01
Administrative Action: 01/24/01

RECOMMENDATION: Conditional approval (5-4: Duvall, Schwinn, Taylor, Krieser and Bayer voting 'yes'; Newman, Steward, Hunter and Carlson voting 'no').

FINDINGS OF FACT:

1. The applicant's submittal is found on p.030-076.
2. The Planning staff recommendation to **deny** this special permit request is based upon the "Analysis" as set forth on p.8-12, concluding that this is an application for a wireless tower in a sensitive location. Three other towers already exist in the general vicinity. The Special Permits for those towers were approved prior to the adoption of the "Personal Wireless Facilities" chapter of the Zoning Ordinance. The existing ordinance encourages collocation and states that applications in sensitive areas may be denied if the applicant has not demonstrated a good faith effort to collocate. The applicant applied to collocate on one of the existing towers only 10 days before filing the application for this request. Previous correspondence provided by the applicant indicated that the applicant was aware that the collocation process could take 90 days. The applicant made their initial inquiry regarding collocation nearly 2 months prior to filing an application to collocate. To date, a good faith effort has not been demonstrated.
3. The applicant's testimony at the initial and continued public hearings is found on p.15-22.
4. The Planning Commission discussions with staff and the applicant are found on p.16-25.
5. Additional information submitted by the applicant concerning negotiations with Western Wireless is found on p.077-080. Coverage maps submitted by the applicant in support of their decision not to collocate on the Western Wireless tower are found on p.084-085.
6. The "Determination of No Hazard to Air Navigation" by the FAA is found on p.081-083.
7. Testimony in opposition is found on p.20, and the record consists of two letters in opposition and a petition in opposition signed by 16 property owners in the area of 7th and Fletcher (p.086-089).
8. The rebuttal by counsel for the applicant and the response by the City Law Department are found on p.20-23.
9. On 01/24/01, a motion to defer failed 1-8 (Steward voting 'yes'; Newman, Duvall, Schwinn, Taylor, Hunter, Carlson, Krieser and Bayer voting 'no').
10. On 01/24/01, the Planning Commission disagreed with the staff recommendation and voted 5-4 to adopt Resolution No. PC-00657 (p.4-7), approving this special permit, with conditions (Duvall, Schwinn, Taylor, Krieser and Bayer voting 'yes'; Newman, Steward, Hunter and Carlson voting 'no'). The issues of the dissenting Commissioners were the need for an independent assessment by a professional engineer and the impact of an additional tower in an acreage area. (See Minutes, p.23-26).
11. On 02/02/01, a letter of appeal was filed by eleven property owners in the area of No. 7th and Fletcher Avenue (p.2).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: February 5, 2001

REVIEWED BY: _____

DATE: February 5, 2001

REFERENCE NUMBER: FS\CC\FSSP1892

City Clerk
Joan Ross
555 South 10th Street
Lincoln NE 68508

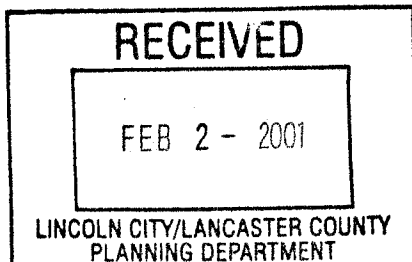
Attention: Joan Ross

We would like to suggest that you request, as the City Clerk, a public hearing on the matter of the recommended proposal special permit 1892.

The proposed tower would adversely impact our property.

Arlo E. Bartels 501 Pennsylvania Ave
Corrine D. Bartels 501 Pennsylvania Ave 68521
Janice M. Meier 6500 N. 7th St. 68521
Bill Meier 6500 N. 7th St. 68521
Hanna H. H. 6320 N. 7th St. 68521
Mary Munggaard 6320 N. 7th St. 68521
David Watts 6301 N. 7th St. 68521
Doreen White
Harold H. H. 6630 No. 7th St. 68521
Randy Mack 535 Pennsylvania 68521
Janice Mack 535 Pennsylvania 68521

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CITY OF LINCOLN
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CITY CLERK'S OFFICE



PLANNING COMMISSION FINAL ACTION
NOTIFICATION

TO : Mayor Don Wesely
Lincoln City Council

FROM : Jean Walker, Planning

DATE : January 25, 2001

RE : Special Permit No. 1892
(Personal wireless facility - No. 7th Street & Fletcher Avenue)
Resolution No. PC-00657

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, January 24, 2001:

Motion made by Schwinn, seconded by Taylor, to approve Special Permit No. 1892, with conditions, requested by Qwest Wireless, L.L.C., for authority to construct a 123' tall personal wireless facility, with associated ground equipment, and a waiver of the fall zone requirement, on property located at No. 7th Street and Fletcher Avenue. Motion for approval, with conditions, carried 5-4: Duvall, Schwinn, Taylor, Krieser and Bayer voting 'yes'; Newman, Steward, Hunter and Carlson voting 'no'.

The Planning Commission's action is final action unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

CCNOTICE/jlw

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
Jill Bazzell, Qwest Wireless, L.L.C., 910 No. 43rd Avenue, 2nd Floor, Omaha,
NE 68131
Rick Grundman, Cumberland Heights Neighborhood, 221 Pennsylvania Ave., 68521

RESOLUTION NO. PC-00657

SPECIAL PERMIT NO. 1892

WHEREAS, Qwest Wireless, L.L.C. has submitted an application designated as Special Permit No. 1892 for authority to construct a 123' tall personal wireless facility, with associated ground equipment, and a waiver of the fall zone requirement on property located at N. 7th Street and Fletcher Avenue, and legally described to wit:

The remaining portion of Lot 32, Cumberland Heights, located in the Southwest Quarter of Section 35, Township 11 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, being more particularly described as follows:

Referring to the South Quarter corner of said Section 35; thence northerly north 01 degrees 46 minutes 40 seconds west on the east line of the Southwest Quarter of said Section 35, 415.33 feet; thence westerly south 88 degrees 13 minutes 28 seconds west, 134.92 feet to the point of beginning for the described lease site; thence westerly south 90 degrees 00 minutes 00 seconds west, 22.00 feet; thence northerly north 00 degrees 00 minutes 00 seconds east, 10.00 feet; thence easterly north 90 degrees 00 minutes 00 seconds east, 22.00 feet; thence southerly south 00 degrees 00 minutes 00 seconds west, 10.00 feet to the point of beginning for the described lease site, containing a total calculated area of 220.00 square feet, more or less;

WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a public hearing on said application; and

WHEREAS, the community as a whole, the surrounding neighborhood, and the real property adjacent to the area included within the site plan for this wireless communications facility will not be adversely affected by granting such a permit; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County Planning

1 Commission of Lincoln, Nebraska:

2 That the application of Qwest Wireless, L.L.C., hereinafter referred to as "Permittee",
3 to construct a 123' tall personal wireless facility be and the same is hereby granted under the
4 provisions of Section 27.63.720 of the Lincoln Municipal Code upon condition that construction of said
5 wireless communications facility be in strict compliance with said application, the site plan, and the
6 following additional express terms, conditions, and requirements:

7 1. This permit approves a 123' tall wireless communications facility for a period of
8 15 years with a waiver of the fall zone required by 27.68.110(g).

9 2. Before receiving building permits:

10 a. The Permittee must complete the following instructions and submit the
11 documents and plans to the Planning Department office for review and
12 approval:

13 i. Revise sheet "Z-3" to place the street names in the proper
14 locations.

15 ii. Provide five full sets of plans to the Planning Department for
16 distribution.

17 iii. Revise the structural drawings to the satisfaction of the Building
18 and Safety Department, to show a 123' pole, not a 70' pole.

19 iv. Provide documentation from the FAA that the proposed tower is
20 in compliance with all FAA regulations.

21 b. The Board of Zoning Appeals must grant a variance of the height allowed
22 in an airport turning district. This Special Permit approval does not imply
23 that the Board of Zoning Appeals will grant such a variance.

24 c. The Permittee must post a surety, approved by the City Attorney, in the

1 minimum amount necessary to guarantee the removal of the facilities.

2 The surety may not be revoked or terminated during the term of the permit.

3 3. Before operating this personal wireless facility, all development and construction
4 must conform to the approved plans.

5 4. The personal wireless service provider shall comply at all times with the current
6 applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal
7 government with authority to regulate towers and antennas.

8 5. The tower shall be inspected and maintained in accordance with the applicable
9 standards for towers that are published by the Electronic Industries Association, as amended from time
10 to time. At the time of this Special Permit, those standards were contained in the TIA/EIA-222-F. The
11 facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and
12 within 60 days of the inspection, file a report with the Department of Building and Safety.

13 6. All privately-owned improvements, including landscaping, must be permanently
14 maintained by the Permittee.

15 7. The site plan approved by this permit shall be the basis for all interpretations of
16 setbacks, yards, locations of buildings, location of parking and circulation elements, and similar
17 matters.

18 8. The terms, conditions, and requirements of this resolution shall be binding and
19 obligatory upon the Permittee and the Permittee's successors and assigns. The building official shall
20 report violations to the City Council which may revoke the special permit or take such other action as
21 may be necessary to gain compliance.

22 9. The Permittee shall, within 10 days of written demand, reimburse the City for all
23 direct and indirect costs and expenses as provided in Section 27.68.090 in connection with the
24 issuance and review of this permit.

1 10. As part of this approval, the Permittee agrees that the Permittee, its successors
2 and assigns shall, at its sole const and expense, indemnify and hold harmless the City, its officers,
3 officials, boards, commissions, agents, representatives, and employees against any and all claims,
4 suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of,
5 resulting from, or alleged to arise out of or result from the construction, operation, repair, maintenance
6 or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-
7 of-pocket expenses, such as costs or suit and defense and reasonable attorney fees, and shall also
8 include the reasonable value of any services rendered by the City Attorney's office and any employees
9 of the City and any consultants retained by the City.

10 11. The Permittee shall sign and return the City's letter of acceptance to the City Clerk
11 within 30 days following approval of the special permit, provided, however, said 30-day period may
12 be extended up to six months by administrative amendment. The City Clerk shall file a copy of the
13 resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing
14 fees therefor to be paid in advance by the Permittee.

15 The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning
16 Commission on this 24th day of January, 2001.

ATTEST:

/s/ Original signed by Russell J. Bayer
Chair

Approved as to Form & Legality:

/s/ Original signed by Rick Peo
Chief Assistant City Attorney

W44

DATE: December 28, 2000

GENERAL INFORMATION:

1. This is a request for a 123' personal wireless communications facility and associated ground equipment.

2. Three existing wireless communications towers are within the general vicinity of this site. A tower operated by Alltel is within 600 feet of the site. A tower operated by Cellular One (a.k.a. Western Wireless) is within 2,000 feet of the proposed site. A tower operated by Sprint is within 1,500 feet of the proposed site.
3. The Alltel tower was approved by Special Permit #1322 for a 185' tower in June, 1989.

Special Permit #1322A, to add antennas to the tower, was withdrawn in October, 1991.

Special Permit #1322B, to add antennas to the tower, was approved in August, 1993.

Special Permit #1322C, to reduce the height of the tower to an overall height of 149', was approved in January, 1995

Special Permit #1322D, to add a microwave dish to the tower, was approved in December, 1996.

Special Permit #1322E, to add antennas and base equipment for AT&T. was approved in November, 1999.

Administrative Permit #00014, to add antennas and base equipment for Qwest, was approved in October, 2000 with the condition that the addition of the antennas must not compromise the structural integrity of the existing tower.
4. Special Permit #1581 for the 150' tower operated by Cellular One (a.k.a. Western Wireless) was approved in January, 1996.
5. Special Permit #1626 for the 80' tower operated by Sprint was approved in August, 1996.
6. The applicant received approval, under Administrative Permit #00014 to co-locate on the Alltel tower. However, a review of the tower by two structural engineers found that the existing tower was not strong enough to accommodate additional antennas.
7. Qwest initiated contact with Cellular One/Western Wireless, the parent company of Cellular One, on October 23, 2000. On October 26, 2000 the contact person from Cellular One/Western Wireless forwarded the application forms to Qwest, and indicated that the application process typically took 90 days.
8. Craig Vogt, the Cellular One/Western Wireless Regional Project Manager for Nebraska, as well as Planning Staff, spoke with the National Collocation Coordinator for Cellular One/Western Wireless, requesting that any applications from Qwest be expedited.
9. In an email to Qwest dated October 26, 2000, the National Collocation Coordinator for Cellular One/Western Wireless indicated to Qwest that she had spoken to Mr. Vogt, and would try to expedite the request as soon as possible to accommodate Qwest and the desires of the City.

10. On Monday, November 27, Qwest sent an email to Cellular One/Western Wireless requesting their federal tax identification number so that a check for the application fee to collocate on the tower could be processed.
11. Cellular One/Western Wireless responded on November 30, 2000.
12. On December 4, 2000, Qwest forwarded a collocation application to Cellular One/Western Wireless.
13. On December 14, 2000, Qwest filed the application for this proposed Special Permit for a free standing tower.
14. The "RF" explanation states that the Cellular One/Western Wireless site is not desirable due to a ridge just west of the 9th Street exit on I-180.
15. However, the ridge line is west of the proposed site as well.
16. Additionally, the proposed site and the site of the Cellular One/Western Wireless site fall between the same two 10' contour lines, implying that the elevation of the two sites falls within 10 feet.
17. Thus, the Cellular One/Western Wireless site should be able to meet the same coverage objectives as the proposed site.
18. The proposed site is in the Lincoln Airport Zoning district, within a turning zone. The airport zoning regulations permit a structure to be a maximum of 75' above the ground elevation, or 150 feet above the elevation of the nearest runway. The height of the proposed structure exceeds these regulations. A variance of the height requirements from the Board of Zoning Appeals would be necessary. Comments were not received from the Airport Authority.
19. The applicant has requested a waiver of the fall zone for the south side of the proposed tower. A metal outbuilding is south of the proposed tower. The structure is not inhabited. There will not be a threat to an existing dwelling unit, or to the right-of-way if the fall zone is waived.

STANDARDS FOR EVALUATION:

Conformity with Comprehensive Plan.

20. The addition of another free standing tower in this location is not consistent with the goals to:

- Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements.
- Protect and enhance features which give Lincoln and Lancaster County its distinctive character, supporting a desirable quality of life.
- Protect and improve important vistas and entryways to the city.

Preference of site location in accordance with Chapter 27.68.080.

21. The site is classified as a sensitive location site as it is predominately residential in character, is adjacent to an entryway corridor, and is located within an airport turning zone.
22. Section 27.68.100(b) states that “an application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower.”
23. Section 27.68.100(c) states that “Locations in sensitive location sites shall be considered only if the applicant:
 - (1) Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility, and
 - (2) Demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible.”

Compatibility with abutting property and surrounding land uses.

24. The proposed facility is not compatible with the abutting property and surrounding uses. There are three existing towers in the area. The area is predominately rural residential in character. The site is visible from the interstate, along an entryway into the community. The site is within the airport turning zone.

Adverse impacts such as the visual, environmental or noise impacts.

25. The addition of a fourth tower in this area would create an adverse visual impact.

Availability of suitable existing structures for antenna mounting.

26. The Cellular One/Western Wireless tower is within 2,000 feet of the proposed site, is at a similar elevation as the proposed site, and is closer to the Interstate than the proposed site. The applicant mailed an application to collocate on that existing tower only 10 days prior to filing the application for this proposed Special Permit.
27. The Alltel tower approximately 600 feet south of the proposed site has been shown to be structurally incapable of accommodating the weight of additional equipment.
28. The Sprint tower approximately 1,500 feet to the southeast is not tall enough, and has been shown to be structurally incapable of accommodating additional height.

Scale of facility in relation to surrounding land uses.

29. The proposed tower is significantly taller than the surrounding residential land uses.

Impact on views/vistas and impact on landmark structures/districts, historically significant structures/ districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.

30. The proposed tower would have a negative impact on the entryway corridor into the City. The site is not within a Capitol View Corridor.

Color and finish.

31. The proposed structure is proposed to be of a neutral, galvanized color and finish.

Ability to co-locate.

32. The applicant has indicated that the tower will be able to accommodate two additional carriers. The application states that two other wireless providers, Nextel and Cricket Communications, have been contacted but were unwilling to provide letters of intent to collocate on the proposed site at this time.

Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.

33. An existing metal building will screen the bottom of the tower to the south. The tower will be highly visible, otherwise.

Impact on natural resources, open spaces, recreational trails, and other recreational resources.

34. There are no known adverse impacts.

STAFF CONCLUSION: This is an application for a wireless tower in a sensitive location. Three other towers already exist in the general vicinity. The Special Permits for those towers were approved prior to the adoption of the "Personal Wireless Facilities" chapter of the Zoning Ordinance. The existing ordinance encourages collocation and states that applications in sensitive areas may be denied if the applicant has not demonstrated a good faith effort to collocate. The applicant applied to collocate on one of the existing towers only 10 days before filing the application for this request. Previous correspondence provided by the applicant indicated that the applicant was aware that the collocation process could take 90 days. The applicant made their initial inquiry regarding collocation nearly 2 months prior to filing an application to collocate. To date, a good faith effort has not been demonstrated.

STAFF RECOMMENDATION:

Denial

If, after public hearing the Planning Commission votes to approve this request, the following conditions should be applied:

CONDITIONS:

Site Specific:

1. This approval permits a 123' tall wireless communications facility for a period of 15 years, with a waiver of the required fall zone per 27.68.110(g).

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 2.1.1 Revise sheet "Z-3" to place the street names in the proper locations.
 - 2.1.2 Provide 5 full sets of plans to the Planning Department for distribution.
 - 2.1.3 Revise the structural drawings, to the satisfaction of the Building and Safety Department, to show a 123' pole, not a 70' pole.
 - 2.1.4 Provide documentation from the FAA that the proposed tower is in compliance with all FAA regulations.
 - 2.2 The Board of Zoning Appeals shall have granted a variance of the height allowed in an airport turning district. This Special Permit approval does not imply that the Board of Zoning Appeals will grant such a variance.
 - 2.3 The permittee shall post a surety, approved by the City Attorney, in the minimum amount necessary to guarantee the removal of the facilities. The surety may not be revoked or terminated during the term of the permit.
3. The following conditions are applicable to all requests:
 - 3.1 Before operating this personal wireless facility, all development and construction is to comply with the approved plans.
 - 3.2 The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.
 - 3.3 The tower shall be inspected and maintained in accordance with the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. At the time of this Special Permit, those standards were contained in the TIA/EIA-222-F. The facility operator shall conduct safety

inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety.

- 3.4 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
- 3.5 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 3.6 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 3.7 The permitted shall, within 10 days of written demand, reimburse the City for all direct and indirect costs and expenses as provided in Section 27.68.090, in connection with the issuance and review of this permit.
- 3.8 As a part of this approval, the permittee agrees that the permittee, successors and assigns shall, at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or result from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.
- 3.9 The City Clerk is to file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee is to pay the recording fee.

Prepared by:

Jennifer L. Dam, AICP
Planner

SPECIAL PERMIT NO. 1892

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 10, 2001

Members present: Hunter, Krieser, Carlson, Duvall, Newman, Taylor, Schwinn and Bayer; Steward absent.

Planning staff recommendation: Denial.

Jennifer Dam of Planning staff submitted additional information for the record including a letter from the Lincoln Airport Authority seeking additional information from the FAA, and a letter in opposition from residents in the general area.

Dam advised that she has had communication with Western Wireless, the owner of one of the towers in the area, indicating that Qwest has approached Western Wireless to collocate on that tower. Western Wireless is in the process of preliminary approvals and has issued approval for the radio frequency; the system development office for Western Wireless has forwarded information to Qwest regarding longitude/latitude which they should receive this week and Western Wireless hopes to have preliminary approval for collocation completed soon and a site walk scheduled for next week.

Dam advised that the staff recommendation on this site continues to be denial because it appears that there is opportunity to collocate on another tower in the general area.

Proponents

1. Jill Bazzell, Qwest Wireless, presented the application for a 123' monopole at 600 Fletcher Avenue. She acknowledged that this is considered a sensitive site since there are three other towers in the general area. Before proceeding with collocation, Qwest must receive tower drawings, foundational drawings, etc. Qwest did perform a structural analysis on the Alltel tower and submitted an application for an administrative permit which was approved, but before that happened AT&T went on the Alltel tower. This required a second structural analysis by Qwest. Qwest did two separate structural analyses after the AT&T antennae went on and both failed. Therefore, the Alltel tower is no longer a suitable option.

The other two towers are owned by Sprint and Western Wireless, one located at 9th and Fletcher and the other located at 12th and Fletcher. Both have been ruled out for collocation for technical reasons. The contour lines are not the problem. The Sprint tower is 80'; Qwest needs 120'. The foundation would not be able to handle that kind of extension.

With regard to the Western Wireless tower, Qwest asked for information in October and they did not receive anything. Qwest had a pre-application conference with Planning. A typical collocation with Western Wireless takes 90 days and they are expecting overwhelming delays. With that timeline it is not feasible for Qwest to collocate. Qwest still has no tower information from Western Wireless. Qwest does not know if the tower is structurally sound as it was built previous to the new

ordinance. Qwest does not have drawings; Qwest does not have any initial lease terms to begin negotiations; Western Wireless will not provide any information.

Qwest did talk to some of the neighbors in the area. There is not a formal neighborhood association. None of the neighbors were opposed to a new tower. The new tower would be located on the outside edge of the airport turning zone. Qwest has discussed this tower with the airspace technician for Nebraska and the FAA did observe that there would be no obstruction and it would not need to be lighted. Bob McNally of LAA said that if the tower is not an obstruction he would have no reason to object. Bazzell does not have written confirmation as to no obstruction yet from the FAA.

Hunter suggested that Qwest should pursue replacing the existing tower that they could collocate on that is not tall enough. Bazzell stated that Qwest has a master lease agreement with Sprint. If Qwest replaced the Sprint tower, Qwest would no longer have a master lease. Qwest would have to bear all of the costs of reconstruction, etc., and the rent would double. It would still be Sprint's tower. Hunter was not satisfied. The whole effort expressed by this Commission is to limit the number of these towers. Bazzell reminded the Commission that the three existing towers were constructed before the new ordinance was written. Qwest definitely would prefer to collocate and they have pursued the options, but it is not feasible.

Corby Dill of Qwest Wireless attempted to explain why the Sprint and Western Wireless towers do not work. One of the coverage objectives of this site was to cover I-180 both north and west, and then south along with I-80 to the east. They basically work line of sight. To cover south on I-180 between Superior and Adams we run into a line of sight issue. Dill further discussed technical aspects of coverage, etc.

Bazzell explained that the Qwest signal goes to the west of the ridge that is there, but the further east we move the more of the ridge that is in the way of the signal.

There was no testimony in opposition.

Staff questions

Hunter asked whether staff is comfortable that Qwest has exercised the requirements to determine that collocation is not possible. Dam does not believe that they have. The Telecommunications Act of 1996 indicates that we cannot discriminate and have to provide coverage but it does not say that it must be "perfect" coverage. Qwest did send an email to Western Wireless at the end of October and then Western Wireless sent them an application form, but it was not until Dec. 4th that Qwest sent an application to Western Wireless and Qwest applied for this special permit just 10 days later. Qwest has not provided sufficient evidence to show they have made a good faith effort to collocate on that site. This is an entryway area; this location does not conform to the goals in the Comprehensive Plan; and section 27.68.100 provides that locations in sensitive sites shall be considered only if the applicant "...provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility, and

demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible.” Qwest has demonstrated that it does not provide ideal coverage but it would provide some coverage.

Carlson asked whether the Lincoln Airport Authority is requesting a delay. Dam clarified that the LAA cannot make an analysis until the FAA report is submitted. Once that information has been submitted, then the LAA can respond as to whether it is an obstruction to air space. Dam further clarified that the proposed tower exceeds the height in that area and will require Board of Zoning Appeals action to exceed the height. Approval of the special permit does not guarantee approval by the Board of Zoning Appeals to exceed the height. Dam also clarified that Qwest has submitted the documentation to FAA but we do not have a written report yet from FAA.

Bayer suggested that if the FAA says no, then the special permit is void.

Bayer believes that the applicant has the right to have coverage they deem necessary. If we forced them to go onto another tower, i.e. Sprint or Western Wireless, can anyone else see a tower south of the hill? Are we not just deciding where the tower will be located? Dam suggested that Qwest will most likely be coming forward in the future anyway for another tower south of the hill. Dam anticipates the need for another tower in that area at some point in the future anyway.

Bayer inquired as to what would be considered undue delay by competition in processing an application. Dam does not believe 90 days is an undue delay. Six months might be a little long, but the zoning process alone is at least three months.

Response by Applicant

Bazzell acknowledged that she received an application form from Western Wireless in October. Qwest did not fill out the application until December 4th because the site did not work for technical reasons and Qwest had not received any tower information. She still has no tower information as far as structure, etc. This information was requested on October 23rd but it has not been provided. Qwest could not complete the application because Western Wireless had not provided the information requested. Qwest applied anyway leaving some of the information blank.

With regard to FAA approval, Qwest did talk to FAA who said there was no obstruction, but nothing has been provided yet in writing. Bazzell is aware and understands the Board of Zoning Appeals requirement. The Alltel and Western Wireless towers are 150'. If the Qwest tower is built at 123', it would have to accommodate two future carriers. Qwest has been in contact with two new carriers approaching Lincoln.

As far as a future tower to the south, Dill advised that based on the coverage map, he would not expect to put a site along I-180 to the south of the hill. The center of the hole is probably in the 14th & Cornhusker area, but there are collocation options in that area. Bayer wondered whether collocation at 14th & Cornhusker would give better coverage to the north? Dill could not provide this information.

Hunter asked whether the applicant has any other resource for information as far the other towers, such as the Planning Department, etc. Bazzell agreed that some of the information would be

available through Planning or Building & Safety. As a wireless user, Hunter observed that in some areas the use may get less perfect but the signal is not dropped. It may get weaker in terms of transfer. Dill responded that if it is a weak signal area, every phone adds noise to the system. But, Hunter reiterated that when you make a phone call and you make a connection and you pass into an area where the signal is a little less perfect, it does not necessarily drop a call. In a perfect world, all of the land would be perfectly flat and you would have a tower that would stretch on forever. This is really scary to Hunter to see all of these dots and all of these towers. Collocation has got to be better than creating another tower. Dill stated that if he thought Qwest could collocate, they would have done it. Having to seek a special permit as opposed to collocation does not speed up their process at all and he would do it if he thought it was the best option.

Schwinn suggested deferring for two weeks to see if Qwest receives the information from Western Wireless and the FAA so that we have the ends tied together. Bazzell would prefer a two-week deferral as opposed to denial.

Schwinn moved to defer for two weeks, with continued public hearing and administrative action scheduled for January 24, 2001, seconded by Carlson and carried 8-0: Hunter, Krieser, Carlson, Duvall, Newman, Taylor, Schwinn and Bayer voting 'yes'; Steward absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: January 24, 2001

Members present: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer.

Planning staff recommendation: Denial.

Jennifer Dam of Planning staff submitted additional information, including a letter in opposition; a letter from the Lincoln Airport Authority reporting that the FAA study indicates that the proposed tower would not be a navigation hazard; a letter from Qwest to Western Wireless; and a petition containing 17 signatures in opposition.

In addition, Dam advised that she did talk with Western Wireless regarding an update on the potential collocation process. Western Wireless has sent Qwest an email requesting that Jill Bazzell talk to their regional manager to request a site walk; that is will be necessary to obtain landowner permission; and that Western Wireless has sent leasing documents to Qwest indicating that the rental rate proposed is based on several collocation rates that are currently being used in Lincoln and that the rate is negotiable.

Proponents

1. Jill Bazzell of Qwest Wireless testified on behalf of the applicant. They were here two weeks ago to discuss the three other towers in the area and explained that Qwest had ruled out collocation on all three existing towers for technical, legal or economic. reasons.

With regard to the Alltel tower, Bazzell again explained that Qwest had received an administrative permit for collocation, but before doing that AT&T went on that tower and the structural analysis failed.

The Sprint tower is ruled out for technical reasons and because it is too short.

Western Wireless is also ruled out for technical reasons. Two weeks ago, Qwest provided this technical information and those reasons still exist today with further engineering evidence. Bazzell noted that the staff conclusion implies that good faith efforts have not been demonstrated because Qwest has not completed the real estate inquiries with Western Wireless. Qwest accepted a two week delay to see if they might receive information from Western Wireless. But, regardless of the lease information, the Western Wireless tower does not work from a technical standpoint and Qwest cannot and will not collocate on the Western Wireless tower. Section 27.68.100(b) states that "... an application to construct new towers may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower." Bazzell submitted that Qwest has indeed shown substantial evidence as to why they cannot locate on these three towers.

Bazzell further cited from section 27.68.100(c), "Locations in sensitive location sites shall be considered only if the applicant: (1) Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility,...". Bazzell acknowledged that all three existing towers fall within the one-half mile, and she submitted that Qwest has shown why none of those towers work.

Section 27.68.100(c)(2) also provides that the applicant must, "Demonstrate(s) with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible." Corby Dill, Qwest Wireless RF Engineer, then again explained the technical reasons why the Western Wireless facility will not work. He submitted computer simulations of coverage from the Western Wireless site and the proposed Qwest site. The proposed Qwest site (Lin27 on the computer simulations) would greatly expand their coverage footprint. It provides expanded coverage down towards the Adams Street area.

Steward confirmed with Dill that the determination of desired coverage is entirely the decision of Qwest as a corporate entity. Dill concurred. He is given basic guidelines by the Qwest corporate office as to coverage objectives. Within their general boundaries Dill is expected to have a certain level of coverage in the area. Qwest strives for 90% coverage on all the main streets to maximize marketing capability. Steward sought confirmation that there would be little to no public input into the force of that decision. Dill believes that marketing has input based on marketing studies. But, Steward noted that a predetermination does not result from a community survey. Dill could not speak as to what the procedures or policies were previous to his time.

Hunter inquired whether there is equipment that reaches further than this. Dill's response was that reaching further is not necessarily a good thing. The equipment that Qwest puts on a tower can only handle so many phone calls at a time. We have a goal as to the expected amount of subscribers. Each site has a certain capacity based on the area that it covers.

Hunter then discussed the difference in power of a cell phone that you use alone versus the same cell phone plugged into a car unit. There is more power when it is plugged into a car unit. "What that specifically means is, if I am calling by hand, I can only reach out to certain area, but if I put that same phone in something that escalates the power, I have extreme coverage." If Qwest "upsized" its equipment, would they get more coverage with less towers? Dill suggested that the approach

to take would be to increase capacity per site. Increasing range is not a problem, but the capacity that each site can handle is the limiting factor based on technology.

Opposition

1. Arlon Bartels, whose property adjoins the property where the tower would be located, testified in opposition. This tower will be in his front yard. He does not think anyone would like to have one in their front yard. It was clarified that the tower is not on his property, but he will see it from his front yard. Bartels lives on five acres and he is surrounded by 5- and 10-acre parcels.

Staff Questions

Bayer asked whether the staff is still recommending denial based upon Qwest's testimony today. Dam's response was that she just received the documentation today and has not had an opportunity to review it. The city always has the option to have a professional engineer review the documentation to see if they concur with the coverage objective. Dam still believes they have an opportunity for collocation.

Schwinn believes that according to federal regulations, if they need that coverage and they have made every attempt to collocate and decided they cannot, then they do get a site someplace in this area. Dam understands the regulations to say we can't keep somebody out—we need to provide some coverage but it does not need to be perfect coverage.

Taylor asked staff to explain why staff does not believe Qwest has put forth a good faith effort. Dam does not believe they have completed negotiations with Western Wireless. The information that was provided by Western Wireless is that all preliminary approvals have been completed and the lease information has been sent to Qwest, but Qwest has not scheduled a site walk at this time or reviewed or negotiated the specifics on the lease. Western Wireless indicates that collocation is an option.

Steward observed that our regulations do not particularly make any distinction for acreage environment. Dam concurred.

Response by the Applicant

Jill Vinjamuri, counsel for Qwest Wireless, gave rebuttal on behalf of the applicant. The Federal Telecommunications Act of 1996 places limitations on local governments for the regulation, construction and placement of wireless facilities. There can be no unreasonable discrimination between different carriers; no unreasonable delay in the processing of applications; and if an application is going to be denied, it must be in writing and supported by substantial evidence by the local government. Vinjamuri believes there is some confusion between what the staff is saying and the evidence presented by Qwest. What Qwest provided two weeks ago, with further substantiation today, is that collocating on the Western Wireless tower absolutely does not meet the coverage they need and they could not and would not locate on that tower. It would not provide them with an

overall coverage in the City of Lincoln. And, specifically, not having coverage on one of the major corridors into Lincoln would not make Qwest competitive with the other carriers that are already here. It would be a case of not letting Qwest compete and unreasonable discrimination if Qwest is never allowed to have similar coverage as the existing carriers.

Vinjamuri went on to state that two weeks ago Qwest presented the same RF reasons why the Western Wireless site would not work and there is no rebuttal evidence from an RF engineer. Speculation from staff is not, under the federal guidelines and federal regulations, enough to rebut the testimony already offered by Qwest.

Vinjamuri also pointed out a site that was approved by this board at 17th & Windhoek in an area where there were already three existing towers (a 911 tower, a State Patrol tower and the Time Warner tower). Qwest, for certain reasons, had to construct a fourth tower. At that point, the staff recommendation was that a fourth tower would not have a major impact on that area because it would actually cluster the towers and have a vertical mass of existing structure. That was viewed then as a more positive impact rather than having the towers spread out. Vinjamuri suggested that an application approved on that basis for one tower and then denied for the other without further evidence, under at least the federal guidelines, would be difficult.

Hunter pointed out that there are no residential acreages at the 17th & Windhoek location. Hunter believes we're talking about the difference between "open space" and "not open space". We're talking about "industrial" versus "acreages". There is a difference. Vinjamuri's response was that there has been no evidence presented that this fourth tower (which is substantially further away from the Interstate than the other three towers) would have such a negative impact.

Hunter believes the applicant is mistaking the difference. The offensiveness of someone having to look at a 120' tower out their front door is not an issue in an industrial area where there are industrial buildings and probably not residences. Hunter took issue and stated that there is a definite difference between the two locations in comparing clustering and not clustering. Vinjamuri does not believe there is enough evidence in this record to support that difference. There are acreages; there are three other towers there; there has been no direct evidence about it,

Steward was not present at the last meeting but he did review the minutes. It appears to him that the discussion at the last meeting largely focused on the question of whether or not Qwest had, in good faith, attempted every effort to collocate—not whether or not Qwest had presented technical reasons from Qwest's own point of view of whether that was not a desirable circumstance. Now you present maps (which may or may not be authenticated) indicating that it is a technical circumstance. Steward takes objection to the notion that the city has not shown any viable reason to further delay this. Vinjamuri's response was that collocation involves two elements. It involves the real estate element and a technical element. Steward believes it also involves an economic element. Vinjamuri concurred. In this situation, it would be Qwest's position that if they could collocate at one of those three towers, it would be a much more desirable outcome economically. All the evidence supports that Qwest was ready to and would have liked to have been on the Alltel tower. But, that tower was not built to carry more than one collocation. Had it been built the way the Qwest tower is proposed (to carry three), Qwest would be on that tower and operational right now.

If the Western Wireless tower would work, that would definitely be a much more feasible outcome for Qwest. We wouldn't have the cost of a \$35,000 pole, foundation, building costs, delays, etc. But to not have the coverage in one of the most major corridors into the city would not make us competitive.

Taylor summed up his understanding, i.e. if Qwest did locate on the Western Wireless tower, their signal would be somewhat inferior and would not accomplish Qwest's intent and needs. If Qwest wanted to accept an inferior situation, then the Western Wireless collocation would work, but Qwest wants a situation that is going to work to reach the customers they want to serve. Vinjamuri agreed.

Carlson asked whether there are "before and after" pictures of the sight line available in relation to the acreage properties. These pictures were not available. Bazzell explained that in this application they were trying to show the tower in relation to the other towers as opposed to the acreage property owner. Carlson was trying to get a sense of mitigating possibilities on this particular site. Dill offered that the Qwest tower is considerably shorter than the Alltel tower and that property owner should already be able to see the Alltel tower. Carlson referred to the pictures and asked whether it is the Qwest antenna that is the one nearest to the ground. Dill clarified that they have two different heights on this one. There is considerable room for other locators. The additional height is the sectors facing to the north to extend the footprint. Generally, they are used to extend out into the more rural areas and then west on Hwy 34. The sector facing in towards Lincoln is lower for capacity issues. Carlson confirmed that the reason they can do the higher, more powerful tower is because their capacity needs in that direction are anticipated to be less. Dill concurred that capacities in the rural area are much less than in the urban area.

Bayer referred to the coverage map submitted with this application. Site 21 (the site in question)—if you go south of that site where you see Belmont, there seems to be a gap in there that has no coverage. Bayer wondered whether Qwest will ultimately need to put a tower somewhere to cover that area that is not covered. Dill suggested that is making the assumption that this map is showing actual coverage. These maps could have been done a little conservatively, so it is possible that they may not need to put another tower in that location.

Rick Peo of the City Law Department stated that the bottom line is that the city cannot deny Qwest the right to do business and to provide coverage. Our regulations can only restrict to that extent. The evaluating criteria under our ordinance would be whether they are technologically not able to do their work without this proposed tower—if the Commission finds this tower is actually needed to accommodate their purpose, he believes the Commission would approve the application. The confusing part is that they have kind of given us a mixed story. They've indicated that, but for site 21, they can't do their job correctly but have still been negotiating with Western Wireless and the last correspondence shows that they were maybe going to walk the site last Friday if they didn't get certain information provided as to the lease rates. Thus, Peo does not know what we are looking at for sure. It is conflicting information. Is it really that they can't do proper service or is it just not the best service? We're looking at one-dimensional pictures in that we're looking at what the proposed tower might provide for coverage, but we don't see the rest of their towers as to what coverage they provide and what the gaps might be. Peo does not know if we're seeing a gap in coverage or not.

Peo also advised the Commission that if they should vote to deny, the ordinance requires a written report as to the basis for denial. The Commission's analysis needs to approve the recommendation of the Planning Department, including the staff analysis and all or whatever portions are relevant to be included in that action. Upon a vote to deny, the Commission must affirmatively pull into the record the analysis utilized for that action.

Steward reiterated that the situation from the last meeting to this meeting is that the primary question was the negotiation issue and had they fulfilled all of their opportunities in that regard, as well as discussion about technical aspects. For Steward at this moment, the remaining issue is evidence of the technology and the technical characteristics. Do we have the authority to defer this and get independent technical advice, and do we have the means and resources to do that? Peo believes that the Commission has the right to defer. Dam advised that there is a section in the ordinance that talks about fees and indicates that the applicant is responsible for all fees, including independent assessments that the city may find necessary. It was written so that we could ask for independent analysis if we so desired.

Taylor moved to defer, seconded by Steward. Due to the testimony today from the applicant and staff, Taylor believes this should be deferred for further research. If not deferred, he might want to move to approve. He wants to clear up the confusion.

Steward's basis for opening up this direction is the fact that it is a residential area—it's acreage; this will not likely be the last time that this matter of a number of competitive towers within a small geographic area comes up; he believes it is an appropriate time for the city to get better information about the technology; and he believes that having an independent engineer assess the information that has been provided is in the best interest of the city.

In response to the comments by Rick Peo, Bazzell submitted that they did have a pre-application meeting with staff either late November or December regarding the new pole. At that time, Dam told Qwest to look into the existing towers, and maybe just put in an application to get all aspects of it, even though the Western Wireless tower was ruled out for technical reasons. The only reason Qwest pursued it is to have a complete application and to cooperate with staff. As far as the independent review from a third party engineer, Bazzell suggested that should be done when the application is submitted. Qwest knew the recommendation was going to be denial. Qwest feels like they keep getting pushed off and pushed off. This could have been handled last month when we submitted an application or in November when we had the pre-application meeting with staff.

Dam clarified that the staff did not hold up Qwest. Bazzell voluntarily agreed to deferral at the last meeting instead of taking a denial, so it was their option. They requested a deferral at the last meeting. At the pre-application conference it was not made clear to Dam that Western Wireless was ruled out for technical reasons and she encouraged Qwest to make a good faith effort to collocate because that is what our ordinance requires. Bayer believes Bazzell did say at the last meeting that they only made application with Western Wireless so that this application did not get stopped and it was a frustration that they had never gotten back to her. Dam pointed out that our ordinance does require that good efforts be made and she emphasized that at the pre-application conference. Bayer believes there is a flaw in our ordinance if we still have to ask them to collocate on a tower that is no good. Dam believes one of the issues is the technical standpoint.

Carlson inquired whether the ordinance provides a specific time frame to ask for independent analysis. Dam stated that the ordinance does not state a specific time frame. Staff disagrees that it should be required at the time of application. Carlson wonders how long it could take and whether it would be appropriate for the Commission to put a time limit on it. It would require the staff to find a consultant. Dam was not sure whether it would require an RFP procedure. And then have the consultant do the analysis. She did not know how long it would take.

Bazzell rebutted that she did not ask for a deferral at the last meeting. Schwinn had asked her whether she would accept a deferral, and she agreed. Today she would not like to accept a deferral. She wants approval or denial.

Carlson did not believe it would be possible to get the information from an independent engineer within two weeks.

Hunter commented that in the past eight months or since these applications for cell towers have been coming forward, we have been looking to the day when we were going to have someone draw their attorney in here and start citing record and verse on what we had to do as far as these towers are concerned. Hunter stated that it is her frank opinion that these cell tower issues are becoming more of an economic issue than they are the concern for the location. What she means by this is that it is much more profitable for the company to have its own lease out to two other carriers than it is to pay leasing fees to someone else and not own the tower. It starts to become an economic issue because the company that owns the tower may want a substantial lease fee that the collocater does not want to pay. That then becomes more of an issue than preserving the visual environment. Hunter feels like the Commission has basically had their hands slapped and told that if we don't approve it then the applicant is going to get legal with it. Hunter does not believe that Qwest has been denied. She does not agree with the insinuation that the Commission has unduly delayed Qwest's applications. She cannot think of one that has been denied. The Commission has tried to be sensitive to make sure that we don't create any more of these eye sores and start creating a whole tower effect in Lincoln, and Hunter believes that is the Commission's job—to try to have as few of these as possible and create collocation in every place that it's available.

Newman would not have a problem with deferral just to let Dam review the new information. However, Newman stated that she would tend toward denial because she believes, collocation or not, there are other places the tower could go that is not within a six block area of acreages. That would be her basis for denial.

Schwinn stated that he is not in favor of deferring this any longer. We need to look at this logically. There was some discussion at the last meeting about the coverage and it was clarified better today. As far as the correspondence still going on with Western Wireless, obviously, if the Commission denies this application, Qwest has no fallback period and we've left them to be held hostage by Western Wireless and they will have to negotiate for lesser service than what the public would demand. Schwinn believes we need this service and it is very important. We're victims of technology. The bottom line is that if they don't want to spend the money, they don't have to. Obviously, this tower is important to them. If we deny this one, maybe they will have to locate one in Belmont. Schwinn will vote in favor and get it moved on. Schwinn pointed out that Qwest has collocated every possible place they can. He believes they have tried their hardest and now they're getting down to their last few hard sites, and this is one of them.

Deferral is not an appealing direction for Steward because it sets in motion the whole circumstance of reporting and complicated reaction by the city. As far as why this technology needs to be proven or disproven, so far in every case, Steward believes that the Commission and staff have accepted the technology presentations of the applicant. It wouldn't matter to him if this was Alltel or any other one as long as it was in this environment with three existing towers. He thinks this company has been better and he commends the kind of presentations that they have made. However, it seems that the city is at a point where it needs to say, are we being given the factual information? He knows what can be done with computer graphics. He is not suggesting that this has been "cooked", but he knows that it is entirely possible and it is easy. For his comfort to move forward and continue the process of supporting the ordinance that we have, Steward believes we need some outside opinion.

Taylor explained that the only reason he requested deferral is because he does not want this to be denied. He believes it should be approved. He does not think the cell towers are any worse than the telephone lines we grew up with. This is progress. He believes Qwest has made a good faith effort to appease the Planning Commission.

Bayer clarified that the motion is to defer for two weeks.

Bayer commented that we are having this conversation because the federal government has put regulations on local communities. If we are upset about this, we should write our Congress people and our Senators and say, "stay out of our front yards and stay out of our back yards with towers." That is why we have this grey area we are talking about today. However, Bayer respects the right of free enterprise to run their business the way business should be run so that they can make money. Bayer has no question about the integrity of this applicant. He is comfortable not having an outside consultant. He will vote against deferral.

Motion to defer for two weeks failed 1-8: Steward voting 'yes'; Newman, Duvall, Schwinn, Taylor, Hunter, Carlson, Krieser and Bayer voting 'no'.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 24, 2001

Schwinn moved approval, with the conditions as set forth in the staff report, seconded by Taylor.

Newman commented that no one is questioning the integrity of Qwest. She just does not think it is appropriate to have four cell towers within this small of an area. She would like to have seen something at a different site. She will vote against for that reason.

Motion for conditional approval carried 5-4: Duvall, Schwinn, Taylor, Krieser and Bayer voting 'yes'; Newman, Steward, Hunter and Carlson voting 'no'.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.